

**At a Regular Meeting of the Town Council of the Town of Middletown,  
RI held at the Middletown Town Hall on Monday, December 1, 2014 at  
6:00 P.M.**

**Council President Robert J. Sylvia, Presiding**

**Vice President Robert Kempenaar, II**

**Councillor Henry F. Lombardi, Jr.**

**Councillor Paul M. Rodrigues**

**Councillor M. Theresa Santos**

**Councillor Antone C. Viveiros**

**Councillor Barbara A. VonVillas, Members Present**

**PLEDGE OF ALLEGIANCE TO THE FLAG**

## **RECONSIDERATION**

**The Middletown Town Council follows the codification of present-day general parliamentary law as articulated in Robert's Rules of Order Newly Revised 10th edition (2000), together with whatever rules of order the Council has adopted for its own governance. The motion to reconsider is one of the motions that can bring a question again before an assembly, and is designed to bring back for further consideration a motion which has already been voted on:**

**If, in the same session that a motion has been voted on, but no later than the same day or the next day on which a business meeting is held, new information or a changed situation makes it appear that a different result might reflect the true will of the assembly, a member who voted with the prevailing side can, by moving to Reconsider [RONR (10th ed.), p. 304-321] the vote, propose that the question shall come before the assembly again as if it had not previously been considered. (From Robert's Rules of Order Newly Revised In Brief, Robert, Evans et al., De Capo Press, 2004)**

**There were no reconsiderations.**

## **6:00 PM - EXECUTIVE SESSION**

**1. Executive Session - Pursuant to provisions of RIGL, Sections 42-46-2, 42-46-4 and 42-46-5 (a) (2) Collective Bargaining (Middletown Municipal Employees Association NEARI Local 869 - Town Hall, NEA Middletown - Certified Teachers, Middletown Association of Auxiliary Personnel/NEARI/NEA – Teacher Assistants RI Council 94, AFSCME, AFL-CIO, Local #1823 – Maintenance/Custodial, Middletown Public Library Employees Association/NEARI Unions)**

**On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to recess open session and reconvene in executive session at 6:02 pm.**

**Councillor Rodrigues recused himself from executive session at 6:09 pm; he left the session, due to a possible conflict of interest.**

**On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to recess executive session and reconvene in open session at 6:57pm.**

**On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to seal the executive session minutes pursuant to Section 42-46-7. RIGL.**

## **PUBLIC FORUM**

**2. Pursuant to Rule 23 of the Rules of the Council, Citizens may address the town on one (1) subject only, said subject of substantive Town business, neither discussed during the regular meeting nor related to personnel or job performance. Citizens may speak for no longer than five (5) minutes and must submit a public participation form to the Council Clerk prior to the start of the meeting. All items discussed during this session will not be voted upon.**

**No one spoke during this session.**

**On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to act as a Board of License Commission.**

## **BOARD OF LICENSE COMMISSION**

### **3. Show Cause Hearing (Licensee**

**Notified)**

**Show Cause Hearing for Lacey, Inc., dba Easton's Point Pub and Restaurant, holder of a Retailer's Class BV Alcoholic Beverage License for premises located at 116 Aquidneck Avenue, Middletown, relative to alleged violations of Rhode Island General Laws, Town of Middletown Ordinances and Liquor Control Regulations.**

**Show cause hearing was declared open.**

**Councillor Rodrigues recused himself from acting on this item of business, due to a possible conflict of interest.**

**Attorney Christopher Gontarz represented the Police Department and Attorney Jeremiah C. Lynch, III represented Lacey, Inc..**

**The stenographic transcript of said hearing is incorporated herein by reference as part of the official minutes of said meeting for the purpose of preserving an accurate record of testimony given.**

**On motion of Council President Sylvia, duly seconded, it was voted unanimously to accept the evidence presented tonight and the admittal, which the Attorney (for Easton's Point) gave that the violations did in fact occur.**

**Show cause hearing was declared closed.**

**Councillor Lombardi suggested a one week suspension of the entertainment and alcoholic beverage licenses, administrative costs, including Police overtime costs. The week may be any full seven day period acceptable to the police department.**

**Councillor Viveiros suggest an additional \$2,000.00 fine be assessed.**

**On motion of Councillor Lombardi, duly seconded, to impose a one week suspension of the entertainment and alcoholic beverage license and \$800.00 in administrative costs for the hearing**

**On motion of Council President Sylvia, duly seconded, to amend said motion to a one week, a 7 consecutive day suspension of both the**

**entertainment and alcoholic beverage licenses, suspension must be served prior to January 30, 2015, \$800.00 in administrative costs must be paid by January 30, 2015,**

**A vote was taken to amend said motion, duly seconded, it was voted unanimously to amend said motion.**

**A vote was taken on the amended motion, entered here: -**

**On motion of Council President Sylvia, duly seconded, it was voted unanimously, to impose a one week, 7 consecutive day suspension of both the entertainment and alcoholic beverage licenses, suspension must be served prior to January 30, 2015, \$800.00 in administrative costs must be paid by January 30, 2015.**

**Vice President Kempenaar recused himself from acting on the following item of business, due to a possible conflict of interest.**



**4. Application of Chipotle Mexican Grill of Colorado, LLC dba Chipotle Mexican Grill for a Retailer's Class BV Alcoholic Beverage License for premises located at 11 East Main Road, Middletown, Rhode Island. (Requires Advertising for Public Hearing and notice to abutters)**

**On motion of Councillor Rodrigues, duly seconded, it was voted unanimously to receive said application, advertise and notify abutters for public hearing to be heard on January 20, 2015.**

**Councillor Santos moved, duly seconded, it was voted unanimously to reconvene as a Town Council.**

**Councillor Santos requested that items #9 and #10 be heard under the regular portion of the docket.**

## **CONSENT**

- 5. Approval of Minutes, re: Regular Meeting, November 3, 2014.**

**On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to approve said minutes.**

- 6. Approval of Minutes, re: Special Meeting, November 9, 2014.**

**On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to approve said minutes.**

- 7. Communication of Denise Panichas, Executive Director, The Samaritans of Rhode Island, re: Appreciation for support.**

**On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to receive said communication.**

**8. Resolution of the Town of Hopkinton, re: Requesting support for the RI General Assembly to repeal the tax on Social Security benefits.**

**On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to receive said resolution.**

**9.**

**Communication of Tax Assessor and Finance Director, with enclosure, re: Cancellation of Taxes for certain Middletown residents.**

**Councillor Santos moved, duly seconded, it was voted unanimously to receive said communication.**

**Councillor Santos thanked Town Administrator Shawn Brown for making a correction to the communication showing that the Finance Director and Tax Assessor are submitting the communication.**

**10. Resolution of the Council, re: Cancellation of Taxes for certain Middletown residents.**

**Councillor Santos moved, duly seconded, it was voted unanimously to pass said resolution.**

**11. Notice of Public Hearing from the Middletown Zoning Board of Review, re: Petition of Seaview Inn, LLC (owner) for a Special Use Permit from Sections 602 & 1400 et seq. to amend the previously granted Special Use Permit to allow revisions to architectural plans on said real estate located at 240 Aquidneck Avenue, John Clarke Road & Valley Road, TAP 115, Lots 1x, 5, 53, 54 and 55.**

**On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to receive said notice of public hearing.**

**12. Notice of Public Hearing from the Middletown Zoning Board of Review, re: Petition of Eden Northgate, LLC (owner) for a Special Use Permit from Sections 602 & 1501 to allow the construction of an accessory rental office and residential garage structures in an existing multi-family project located in Residential Multi-Family Zone (RM) on said real estate located at 3 Admiralty Drive, TAP 106 Lots 3 & 4.**

**On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to receive said notice of public hearing.**

**13. Notice of Public Hearing from the Middletown Zoning Board of Review, re: Petition of Eden Northgate, LLC (owner) for a Variance from Sections 1304 to allow less than the required number of off-street parking spaces, section 1505(2) to allow less than the**

**required open space and section 603 to allow the construction of an accessory rental office with a side yard setback of 7.43' where 40' is required, on said real estate located at 3 Admiralty Drive, TAP 106 Lots 3 & 4.**

**On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to receive said notice of public hearing.**

**14. Application for Special Event Permit by Embrace Home Loans for the Embrace Christmas Party at 25 Enterprise Drive and 110 Enterprise Drive to be held on Saturday, December 6, 2014 from 11:00 am to 2:00 pm.**

**On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to grant said special event permit.**

**LICENSES AND PERMITS**

**15. Application of Troubled Soul & Company, LLC (Marc Milici), for a Tattoo License for use at premises located at 999 West Main Road, for the 2014-2015 licensing year. (NEW)**

**On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to grant said license.**

**16. Application of Ernest Jones, Estate of Newport, for a License of Burial, Middletown Cemetery, Section 53, Grave 19.**

**On motion of Council President Sylvia, duly seconded, it was voted unanimously to grant said license.**

**17. Application of Sally Bloomfield of Middletown, for a License of Burial, Middletown Cemetery, Section 53, Grave 223.**

**On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to grant said license.**

## **OTHER COMMUNICATIONS**

**18. Memorandum of Louis P. DiPalma, Senator – District 12, re: Legislative Agenda for 2015. (Council to set date)**

**On motion of Councillor Rodrigues, duly seconded, it was voted unanimously to receive said memorandum and schedule the Town Legislative Agenda meeting on January 20, 2014 at 6:00 pm.**

**19. Communication of Dan Glenning and M. Moitoza, Raffle Committee, Newport County YMCA Adaptive Program and Special Olympics team, re: Request for support for its Annual Holiday Raffle.**



**On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to receive said communication and donate to the Annual Holiday Raffle (\$100.00) to be appropriated from the Council President's discretionary fund.**

## **TOWN COUNCILLOR**

**20.**

**Memorandum of Councillor Viveiros, re: Consolidation of Services.**

**On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to receive said memorandum.**

**Councillor Viveiros reviewed the memorandum above.**

**Councillor VonVillas noted that Town Administrator Shawn Brown already performs the duty requested in the above memorandum.**

**Town Administrator Shawn Brown explained to consolidate services careful planning is necessary; a cost analysis, an implementation plan and an agreement with the School and Town would be required.**

**TOWN ADMINISTRATOR**

**21.**

**Memorandum of Town Administrator, with enclosures, re: Recommendation for Impact Fees.**

**On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to receive said memorandum.**

**Town Administrator Shawn Brown reviewed the memorandum, above.**

**On motion to Vice President Kempenaar, duly seconded, it was voted unanimously to authorize the administration to amend the Town's contract with TishlerBise to complete the work necessary to complete a Sanitary Sewer Impact Fee Study to support the creation of a new impact fee necessary to offset the estimated cost of constructing additional capacity at the Codington Highway Wastewater Treatment Plant.**

**22. Memorandum of Town Administrator and Human Resources Manager, re: Holiday Donation – Request for funds.**

**On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to receive said memorandum and contribute (\$500.00) to be appropriated from the Council President's Discretionary Fund.**

## **APPOINTMENT TO BOARDS AND COMMITTEES**

**23. Email communication of Councillor Lombardi, re: Resignation from the Juvenile Hearing Board.**

**On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to receive said email communication and accept said resignation.**

**24. Email communication of Councillor Vivieros, re: Resignation from the Roads and Utilities Committee.**

**On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to receive said email communication and accept said resignation.**

**25. Email communication of Vice President Kempenaar, re: Resignation from the Newport County Convention and Visitors Bureau.**

**On motion of Councillor Rodrigues, duly seconded, it was voted unanimously to receive said email communication and accept said resignation.**

**26. Appointment of Town Council representatives to various boards and commissions.**

**On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to appoint Councillor Lombardi, as liaison to the Aquidneck Island Planning Commission (AIPC).**

**On motion of Vice President Kempenaar, duly seconded, it was voted**

**unanimously to appoint Council President Sylvia, Vice President Kempenaar & Councillor Rodrigues to the Audit Committee.**

**On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to appoint Councillor Lombardi and Councillor Viveiros as liaisons to the Beach Commission.**

**On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to appoint Councillor Viveiros as liaison to the Chamber of Commerce.**

**On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to appoint Councillor Santos as liaison to the Citizens Memorial Committee.**

**On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to appoint Councillor Viveiros as liaison to the Coastal Resource Management Council.**

**On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to appoint Vice President Kempenaar and Councillor VonVillas as liaisons to the Economic Development Advisory Committee.**

**On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to appoint Councillor VonVillas as liaison to the Library Board of Trustees**

**On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to appoint Councillor Santos as liaison to the Middletown Arts Committee/Committee for the Arts.**

**On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to appoint Councillor Lombardi as liaison to the Middletown Prevention Coalition.**

**On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to appoint Vice President Kempenaar and Councillor Rodrigues as liaisons to the Newport and Bristol County Convention and Visitors Bureau.**

**On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to appoint Vice President Kempenaar as liaison to the Open Space and Fields Committee.**

**On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to appoint Councillor VonVillas as liaison to the Pension Trust Fund Investment Committee.**

**On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to appoint Councillor Rodrigues as liaison to the Recreation Facilities Master Plan Advisory Group.**

**On motion of Vice President Kempenaar, duly seconded, it was voted**



**unanimously to appoint Councillor Rodrigues as liaison to the Roads/Utilities Advisory Committee.**

**On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to appoint Council President Sylvia and Councillor Viveiros as liaison to the School Committee.**

**On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to appoint Councillors Lombardi, Viveiros and VonVillas to the Special Assessment Review Sub-Committee.**

**On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to appoint Council President Sylvia, Councillor Rodrigues and Councillor Santos to the Budget Sub-Committee.**

## **27. Adoption of**

**Rules of the Council.**

**On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to adopt said Rules of the Council.**

**28. Adoption of Meeting dates December 2014 thru May 2015.**

**On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to adopt said December 2014 – May 2015 meeting schedule.**

**29. Discussion of December 15, 2014 Regular Meeting of the Council.  
(No documentation)**

**On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to cancel the January 5, 2015 Regular Meeting of the Council.**

**On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to adjourn said meeting at 8:06 p.m.**

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**Wendy J.W. Marshall, CMC**

**Council Clerk**

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